

*** NOT FOR PUBLICATION ***

NO. 26353

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

WALTER JOHN KELLY, CHARLES ROSS FLAHERTY, JR., PATRICK M. CUNNINGHAM, MICHELE CONSTANS WILKINS, PROTECT KEOPUKA OHANA, a Hawai'i non-profit corporation, Plaintiffs-Appellees

vs.

1250 OCEANSIDE PARTNERS, a Hawai'i corporation, STATE OF HAWAI'I, DEPARTMENT OF HEALTH, a Department of the State of Hawai'i, CHIYOME FUKINO in her official capacity as the director of the State of Hawai'i DEPARTMENT OF HEALTH, COUNTY OF HAWAI'I; CHRISTOPHER YUEN, in his official capacity as the Planning Director for the County of Hawai'i; DENNIS LEE, in his official capacity as the Chief Engineer for the County of Hawai'i, Defendants-Appellants

and

DEPARTMENT OF LAND AND NATURAL RESOURCES; PETER T. YOUNG, in his official capacity as the Director of the State of Hawaii DEPARTMENT OF LAND AND NATURAL RESOURCES; KALA'AU WAHILANI, in his official and personal capacity as a Historic Sites Specialist of the DLNR; NA ALA HELE; HOLLY McELDOWNY in her official capacity as the Administrator of the State Historic Preservation Division of the DLNR; LAND USE COMMISSION; Defendants-Appellees

and

JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS, PARTNERSHIPS, GOVERNMENTAL UNITS OR OTHER ENTITIES 1-20, Defendants

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 00-1-0192K)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the statements of jurisdiction, appellant Department of Health's motion to dismiss appeal and the record, it appears that the judgment entered on September 12, 2003, the Honorable Ronald Ibarra, presiding, purports to be the

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final judgment on the circuit court's orders resolving claims asserted in the Fifth Amended Complaint. However, the judgment does not enter judgment in favor of and against the appropriate parties in accordance with the circuit court's orders and is not an appealable final judgment. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119-120, 869 P.2d 1334, 1338-39 (1994) ("An appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties.").

It further appears that the amended judgment entered on January 21, 2004 purports to be the appealable final judgment resolving all claims asserted in the Fifth Amended Complaint. The January 21, 2004 judgment was entered by the time the record for No. 26353 was filed in the supreme court, but the time for appealing the January 21, 2004 judgment does not commence until the entry of orders disposing of the February 2, 2004 motions to alter the January 21, 2004 judgment. See HRAP 4(a)(3). Thus, this appeal is premature and we lack jurisdiction. Therefore,

IT IS HEREBY ORDERED that the appeals by defendant-appellants 1250 Oceanside Partners, County of Hawai'i and State of Hawai'i Department of Health and the Director of Health are dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, April 23, 2004.